

CWTF
REP

5 January 1954

MEMORANDUM FOR: Deputy Chief, EE/Admin

VIA : Chief, Administration, DD/P

SUBJECT : Credit of Overseas Service with Military Forces
Towards Two Years Abroad

REFERENCES : a. Your memorandum dated 14 December 1953, same
subject

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b.

1. Reference a requests a statement of our interpretation of law and regulations as applied to the credit of combined military and civilian CIA service as qualifying criteria for PCS and home leave travel to the EI. This matter as indicated in paragraph 3 of reference a was the subject of an opinion of this office dated September 30, 1953, a copy of which is appended hereto for your files. This office perceives no reason to revise the conclusions of this opinion at this time.

2. We are in agreement with your view that reference b partially reflects an erroneous understanding of Agency authority in this matter. We are not aware of any Agency regulatory issuance which promulgates policy on this subject and based our earlier opinion upon an interpretation of Section 5(a)(3)(A) of the CIA Act of 1949 (Public Law 110 - 81st Congress). We construe this section to make available the benefit of statutory leave in the United States at Government expense only to those, presently employees of CIA, who have served in the capacity of civilian employees of the United States for two continuous years abroad and as a matter of law, and not contract, accrue leave during such period under the Annual and Sick Leave Act of 1951, as amended. A military officer whether detailed to CIA or not does not accrue leave under this statute. This conclusion with respect to the interpretation of the cited section has received the informal approval of representatives of the General Accounting Office.

3. We can see no legal objection to an Agency policy which supports the conclusion of paragraph 2 in reference b that military personnel who civilianize in the field need complete only two continuous years of combined military and civilian Agency overseas service to be returned PCS to the EI. We believe this is entirely a matter of policy

and might appropriately be covered by regulation. However, completion of such a period of combined service does not establish entitlement to "home leave". This entitlement is statutory and may not be granted unless the statutory conditions, as above interpreted, are met.

4. If the foregoing is insufficient to enable you to correct the field's misunderstanding, we would be pleased to discuss this matter further.

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Office of General Counsel

Attachments

OGC/GHK:cat

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